



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/711,292

09/08/2004

Erik Wayne Johnson

5291

43786 7590 01/25/2007  
MIKE W. FYNBOH AND  
ERIK W. JOHNSON  
2906 OLD HIGHWAY 8  
ROSEVILLE, MN 55113

EXAMINER

STORMER, RUSSELL D

ART UNIT

PAPER NUMBER

3617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

30 DAYS

01/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

***Response to Amendment***

1. The reply filed on August 7, 2006 is not fully responsive to the prior Office Action because of the omissions or matters noted in paragraphs 2-4 below.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

***Drawings***

2. The drawings are still objected to because for the reasons set forth in the previous office action. The figures are too small and lack sufficient detail. The drawings must contain reference characters to point out the elements of the invention.

The drawings are not in compliance with 37 CFR 1.121 because they are not submitted on separate sheets (figure 1 is included on the same sheet as the abstract. The other sheets are not labeled as "Replacement Sheets."

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

Art Unit: 3617

be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

3. The disclosure is still objected to because there are no reference characters to point out the features in the drawings. It is difficult if not impossible to clearly understand the invention with reference characters.

Appropriate correction is required.

### *Response to Amendment*

4. The amendment is not properly signed. The Certificate of Mailing is signed by one of the Inventors, but this is not sufficient. See MPEP 714.01(a) reproduced below.

714.01(a) [R-3] Unsigned or Improperly Signed Amendment

37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

.....  
(b) Amendments and other papers. Amendments and other papers, except for written

assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:  
.....

(1) A registered patent attorney or patent agent of record appointed in compliance with §1.32(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of §1.34;<

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants ( § 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

5. Section II of MPEP chapter 714 is reproduced below for Applicants' convenience.

## II. MANNER OF MAKING AMENDMENTS UNDER 37 CFR 1.121

All amendments filed on or after July 30, 2003 must comply with 37 CFR 1.121 as revised in the notice of final rule making published in the Federal Register on June 30, 2003 at 65 Fed. Reg. 38611. The manner of making amendments has been revised to assist in the implementation of beginning-to-end electronic image processing of patent applications. Specifically, changes have been made to facilitate electronic image data capture and processing and streamline the patent application process. If an amendment filed on or after July 30, 2003 does not comply with revised 37 CFR 1.121, the Office will notify applicants via a Notice of Non-Compliant Amendment that the amendment is not accepted.

The revised amendment practice is summarized as follows.

Art Unit: 3617

## A. Amendment Sections

Each section of an amendment document (e.g., Specification Amendments, Claim Amendments, Drawing Amendments, and Remarks) must begin on a separate sheet to facilitate separate indexing and electronic scanning of each section of an amendment document for placement in an image file wrapper. It is recommended that applicants use the following format when submitting amendment papers. The amendment papers should include, in the following order:

- ★ (A) a cover sheet, or introductory comments, providing the appropriate application information (e.g., application number, applicant, filing date) and which serves as a table of contents to the amendment document by indicating on what page of the amendment document each of the following sections begin;
- ★ (B) a section (must begin on a separate sheet) entitled "Amendments to the Specification" (if there are any amendments to the specification). This section should include all amendments to the specification including amendments to the abstract of the disclosure;
- ★ (C) a section (must begin on a separate sheet) entitled "Amendments to the Claims" which includes a complete listing of all claims ever presented in the application (if there are any amendments to the claims);
- ★ (D) a section (must begin on a separate sheet) entitled "Amendments to the Drawings" in which all changes to the drawings are discussed (if there are any amendments to the drawings);
- ★ (E) a remarks section (must begin on a separate sheet); and

Art Unit: 3617

- ★ (F) any drawings being submitted including any "Replacement Sheet," "New Sheet," or "Annotated Sheet."

#### B. Amendments to the Specification

Amendments to the specification, other than the claims, computer listings (37 CFR 1.96) and sequence listings (37 CFR 1.825), must be made by adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification. In order to delete, replace or add a paragraph to the specification of an application, the amendment must unambiguously identify the paragraph to be modified either by paragraph number (see MPEP § 608.01), page and line, or any other unambiguous method and be accompanied by any replacement or new paragraph(s). Replacement paragraphs must include markings to show the changes. A separate clean version of any replacement paragraphs is not required. Any new paragraphs must be presented in clean form without any markings (i.e., underlining).

Where paragraph numbering has been included in an application as provided in 37 CFR 1.52(b)(6), applicants can easily refer to a specific paragraph by number when presenting an amendment. If a numbered paragraph is to be replaced by a single paragraph, the added replacement paragraph should be numbered with the same number of the paragraph being replaced. Where more than one paragraph is to replace a single original paragraph, the added paragraphs should be numbered using the number of the original paragraph for the first replacement paragraph, followed by increasing decimal numbers for the second and subsequent added paragraphs, e.g., original paragraph [0071] has been replaced with paragraphs [0071], [0071.1], and [0071.2]. If a numbered paragraph is deleted, the numbering of the subsequent paragraphs should remain unchanged.

37 CFR 1.121(b)(1)(ii) requires that the full text of any replacement paragraph be provided with markings to show all the changes relative to the previous version of the paragraph. The text of any added subject matter must be shown by underlining the added text. The text of any deleted subject matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show the deletion of five or fewer consecutive characters (e.g., [[error]]). The term “brackets” set forth in 37 CFR 1.121 means square brackets – [ ], and not parentheses – ( ). The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived (e.g., deletion of the number “4” must be shown as [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strike-through, followed by including and underlining the extra text with the desired change (e.g., \_\_\_\_\_ number 4 as number 14 as). For added paragraphs, 37 CFR 1.121(b)(2)(iii) requires that the full text of any added paragraph(s) be presented in clean form without any underlining.

Similarly, under 37 CFR 1.121(b)(2)(iv), a marked up version does not have to be supplied for any deleted paragraph(s). It is sufficient to merely indicate or identify any paragraph that has been deleted. The instruction to delete may identify a paragraph by its paragraph number, page and line number, or include a few words from the beginning, and end, or the paragraph, if needed for paragraph identification.



Applicants are also permitted to amend the specification by replacement sections (e.g., as provided in 37 CFR 1.77(b), 1.154(b), or 1.163(c)). As with replacement paragraphs, the amended version of a replacement section is required to be provided with markings to show all

Art Unit: 3617

the changes relative to the previous version of the section. The text of any added subject matter must be shown by underlining the added text. The text of any deleted subject matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show the deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived.



Applicants are also permitted to amend the specification by submitting a substitute specification, provided the requirements of 37 CFR 1.125(b) and (c) are met. Under 37 CFR 1.125, a clean version of the substitute specification, a separate marked up version showing the changes in the specification relative to the previous version, and a statement that the substitute specification contains no new matter are required.

Any previously deleted paragraph or section can only be reinstated by a subsequent amendment presenting the previously deleted subject matter. A direction by applicant to remove a previously entered amendment will not be permitted.



#### C. Amendments to the Claims

Each amendment document that includes a change to an existing claim, including the deletion of an existing claim, or submission of a new claim, must include a complete listing of all claims ever presented (including previously canceled and non-entered claims) in the application. After each claim number, the status identifier of the claim must be presented in a parenthetical expression, and the text of each claim under examination as well as all withdrawn claims (each with markings if any, to show current changes) must be presented. The listing will serve to replace all prior versions of the claims in the application.



Art Unit: 3617

★ (A) Status Identifiers: The current status of all of the claims in the application, including any previously canceled or withdrawn claims, must be given. Status is indicated in a parenthetical expression following the claim number by one of the following status identifiers: (original), (currently amended), (previously presented), (canceled), (withdrawn), (new), or (not entered). The status identifier (withdrawn – currently amended) is also acceptable for a withdrawn claim that is being currently amended. See paragraph (E) below for acceptable alternative status identifiers.

Claims added by a preliminary amendment must have the status identifier (new) instead of (original), even when the preliminary amendment is present on the filing date of the application and such claim is treated as part of the original disclosure. If applicant files a subsequent amendment, applicant must use the status identifier (previously presented) if the claims are not being amended, or (currently amended) if the claims are being amended, in the subsequent amendment. Claims that are canceled by a preliminary amendment that is present on the filing date of the application are required to be listed and must have the status identifier (canceled) in the preliminary amendment and in any subsequent amendment. The status identifier (not entered) is used for claims that were previously proposed in an amendment (e.g., after-final) that was denied entry.

For any amendment being filed in response to a restriction or election of species requirement and any subsequent amendment, any claims which are non-elected must have the status identifier (withdrawn). Any non-elected claims which are

being amended must have either the status identifier (withdrawn) or (withdrawn – currently amended) and the text of the non-elected claims must be presented with markings to indicate the changes. Any non-elected claims that are being canceled must have the status identifier (canceled).

(B) **Markings to Show the Changes:** All claims being currently amended must be presented with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim must be shown by strike-through (for deleted matter) or underlining (for added matter) with 2 exceptions: (1) for deletion of five or fewer consecutive characters, double brackets may be used (e.g., [[error]]); (2) if strike-through cannot be easily perceived (e.g., deletion of number “4” or certain punctuation marks), double brackets must be used (e.g., [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strike-through, followed by including and underlining the extra text with the desired change (e.g., \_\_\_\_\_ number 4 as number 14 as).

An accompanying clean version is not required and should not be presented. Only claims of the status “currently amended” or “withdrawn” will include markings. Any claims added by amendment must be indicated as “new” and the text of the claim must not be underlined.

(C) **Claim Text:** The text of all pending claims under examination and withdrawn claims must be submitted each time any claim is amended. The text of pending claims not being currently amended, including withdrawn claims, must be

Art Unit: 3617

presented in clean version, i.e., without any markings. Any claim presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version except to omit markings that may have been present in the immediate prior version of the claims. A claim being canceled must be indicated as "canceled;" the text of the claim must not be presented. Providing an instruction to cancel is optional. Canceled and not entered claims must be listed by only the claim number and status identifier, without presenting the text of the claims. When applicant submits the text of canceled or not-entered claims in the amendment, the Office may accept such an amendment, if the amendment otherwise complies with 37 CFR 1.121, instead of sending out a notice of non-compliant amendment to reduce the processing time.

- ★ (D) Claim Numbering: All of the claims in each amendment paper must be presented in ascending numerical order. Consecutive canceled or not entered claims may be aggregated into one statement (e.g., Claims 1 – 5 (canceled)). A canceled claim can be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number. The original numbering of the claims must be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. For example, when applicant cancels all of the claims in the original specification and adds a new set of claims, the claim listing must include all of the canceled claims with the status identifier (canceled) (the cancelled claims may be aggregated into one statement). The new claims must be numbered consecutively beginning with the number next

Art Unit: 3617

following the highest numbered claim previously presented (whether entered or not) in compliance with 37 CFR 1.126.



Example of listing of claims:

Claims 1-5 (canceled)

Claim 6 (withdrawn): A process for molding a bucket.

Claim 7 (previously presented): A bucket with a handle.

Claim 8 (currently amended): A bucket with a \_\_\_\_\_ green blue handle.

Claim 9 (withdrawn): The process for molding a bucket of claim 6 using molten plastic material.

Claim 10 (original): The bucket of claim 8 with a wooden handle.

Claim 11 (canceled)

Claim 12 (previously presented): A bucket having a circumferential upper lip.

Claim 13 (not entered)

Claim 14 (new): A bucket with plastic sides and bottom.

#### D. Amendments to the Drawing



Any changes to an application drawing must comply with 37 CFR 1.84 and must be submitted on a replacement sheet of drawings, even when applicant is only submitting better quality drawings without any substantive changes. Any additional new drawings must be submitted on a new sheet of drawings. The replacement or new sheet of drawings must be an attachment to the amendment document and must be identified in

the top margin as "Replacement Sheet." The new drawing sheet must be identified in the top margin as "New Sheet." The replacement drawing sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended."

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be included. The marked-up copy must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change to the drawings. A marked-up copy of any amended drawing figure, including annotations indicating the changes made, must be provided when required by the examiner.

An explanation of the changes made must be presented in the "Amendments to the Drawings" or the remarks section of the amendment document. If the changes to the drawing figure(s) are not approved by the examiner, applicant will be notified in the next Office action. Applicant must amend the brief and detailed description of drawings sections of the specification if they are not consistent with the changes to the drawings. For example, when applicant files a new drawing sheet, an amendment to the specification is required to add the brief and detailed description of the new drawings.

The proposed drawing correction practice has been eliminated. For any changes to the drawings, applicant is required to submit a replacement sheet of drawings with the changes made. No proposed changes in red ink should be submitted. Any proposed drawing corrections will be treated as non-compliant under 37 CFR 1.121(d). In

Art Unit: 3617

response to any drawing objections, applicant should submit drawing changes by filing a replacement sheet of drawings or a new sheet of drawings with the corrections made. A letter to the official draftsman is no longer required.


Drawing submissions without any amendments to the specification and claims after allowance should be forwarded to the Office of Patent Publication.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (571) 272-6687. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

1/18/07

  
**RUSSELL D. STORMER**  
**PRIMARY EXAMINER**